

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
November 2, 2009

No Minutes

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
November 3, 2009

- D053903 Anderson v. Jew et al.**
Summary judgment for Defendants and the postjudgment orders are affirmed.
Costs are awarded to respondents.
Huffman, J.; We Concur: Benke, Acting P.J., Nares, J.
- D055913 Anna G. et al. v. Superior Court of San Diego County/San Diego County
Health and Human Services Agency**
The attorney for petitioner Anna G. has notified the court that a petition for writ of mandate under California Rules of Court, rules 8.452 and 5.600 will not be filed as there are no viable issues for writ review. No timely petition for writ relief has been filed for petitioner James S. The notice of intent is deemed to be abandoned. The case is dismissed.
- D054701 Feldman v. Feldman**
Upon written request filed by appellant, the appeal is dismissed and the remittitur is ordered to issue immediately.
- D054457 Miller v. Miller**
We reverse the portions of the November 7 order determining that Jeffrey's monthly income is approximately \$35,000, that the guideline child support amount is \$1,303, and that the order reducing the amount of child support is retroactive to July 1, 2008. In all other respects, the order is affirmed. On remand, the trial court shall recalculate Jeffrey's monthly income and the guideline child support award. Jeffrey shall pay Maureen's costs on appeal.
Nares, J.; We Concur: McConnell, P.J., Huffman, J.
- D056072 Sviridov v. The Superior Court of San Diego County/City of San Diego et al.**
The petition is denied.
- D056049 In re de Leon on Habeas Corpus**
The petition is denied.

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
November 4, 2009

- D055752 In re R.H., a Juvenile**
Appellant has failed to file a brief after notice given pursuant to California Rules of Court, rule 8.412(d)(1)(A), and 8.416(g). The appeal is dismissed.
- D055731 In re J.T., a Juvenile**
Appellant J.S. has failed to file a brief after notice given pursuant to California Rules of Court, rule 8.412(d)(1)(A), and 8.416(g). The appeal is dismissed as to J.S. only.
- D052282 Brown v. Custard Insurance Adjusters, Inc.**
Upon written stipulation filed by the parties to the appeal, the appeal is dismissed and the remittitur is ordered to issue immediately. Each party to bear own costs on appeal.
- D055844 In re Suarez on Habeas Corpus**
The petition is denied.
- D055293 Hernandez v. Raytheon Company et al.**
Appellant has failed to file a brief as notice given pursuant to California Rules of Court, rule 8.220(a). The appeal is dismissed.
- D054597 In re A.D. et al., Juveniles**
The orders terminating parental rights are reversed and the juvenile court is directed to comply with the notice provisions of ICWA with respect to the Standing Rock Sioux Tribe. If, after proper notice and inquiry, the Standing Rock Sioux Tribe does not intervene, the court shall reinstate the orders. If the Standing Rock Sioux Tribe intervenes, the court is ordered to conduct a new section 366.26 selection and implementation hearing in accordance with ICWA. (In re Francisco W. (2006) 139 Cal.App.4th 695, 705-706; In re Jonathan D. (2001) 92 Cal.App.4th 105, 111-112.)
McConnell, P.J.; We Concur: Benke, J., Aaron, J.
- D056162 Orozco v. The Superior Court of San Diego County/JP Morgan Chase Bank, NA et al.**
The petition is denied.

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
November 5, 2009

- D056170 In the Matter of the Application of: Douglas Dowson**
The denial of a petition for writ of habeas corpus is not appealable.
The appeal is dismissed.
- D055744 Martinez v. Workers Compensation Appeals Board and Manpower of San Diego et al.**
The petition is denied. Respondent's request for attorney's fees is denied.
- D056153 In re Goodrich on Habeas Corpus**
The petition is denied without prejudice to refile in the Second District, Ronald Reagan State Building, 300 South Spring Street, 2nd Floor, Los Angeles, California 90013. The clerk is directed to retain one copy of the petition for our records and to return the original petition and any other copies to Goodrich so he may file them in the appropriate court.
- D054529 Ackerman v. Poway Unified School District**
Judgment affirmed. Plaintiff to pay District's costs on appeal.
- D054084 Betancourt et al. v. A.M. Ortega Construction, Inc.**
The request for publication of the opinion is denied.
- D054864 People v. Kowalczyk**
The judgment is affirmed. McDonald, J.; We Concur: Haller, Acting P.J., Aaron, J.
- D055994 Rite Aid Corporation v. Superior Court of San Diego/Hall**
The petition is denied.
- D056048 In re Brown on Habeas Corpus**
The petition is denied.
- D056177 People v. Reed**
The notice of appeal is premature because no appealable order or judgment has yet been entered. The appeal is dismissed without prejudice to refile a notice of appeal after an appealable order or judgment has been entered.

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
November 6, 2009

- D054152 Woodall v. Kolender et al.**
Judgment affirmed. Benke, J.; We Concur: McConnell, P.J., O'Rourke, J.
- D055134 In re C.A., a Juvenile**
Appellant has failed to file a brief after notice given pursuant to California Rules of Court, rule 8.360(c)(5)(A). The appeal is dismissed.
- D056017 Rosa M. v. Superior Court of San Diego County/San Diego County Health and Human Services Agency**
The attorney for petitioner Rosa M. has notified the court that a petition for writ of mandate under California Rules of Court, rules 8.452 and 5.600 will not be filed as there are no viable issues for writ review. The case is dismissed.
- D056043 P.G. v. Superior Court of San Diego County/San Diego County Health and Human Services Agency**
The attorney for petitioner P.G. has notified the court that a petition for writ of mandate under California Rules of Court, rules 8.452 and 5.600 will not be filed as there are no viable issues for writ review. The case is dismissed.
- D054937 In re J.D., a Juvenile**
The order is affirmed. McDonald, Acting P.J.; We Concur: O'Rourke, J., Irion, J.
- D054969 People v. Gapner**
The judgment is affirmed. Haller, J.; We Concur: Benke, Acting P.J., McDonald, J.
- D053779 Stout et al. v. Balboa Insurance Company**
The judgment is reversed. Appellants are awarded costs on appeal. Irion, J.; We Concur: Haller, Acting P.J., O'Rourke, J.
- D053082 People v. Chillis**
The judgment is modified to strike the second sentence of life without possibility of parole derived from the doubling provision of the Three Strikes law. The trial court is directed to prepare an amended abstract of judgment reflecting this change and to forward a copy of the amended abstract to the Department of Corrections and Rehabilitation. As so modified, the judgment is affirmed.
Haller, Acting P.J.; I Concur: O'Rourke, J.; I Concur in the Result: Aaron, J.
- D053731 Evans et al. v. Lasco Bathware, Inc., et al.**
The opinion filed October 13, 2009, is ordered certified for publication.

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE

November 6, 2009 (Continued)

D053095 Durant et al. v. CBU Builds, Inc.

Judgment affirmed. CBU to recover its costs of appeal.
Benke, Acting P.J.; We Concur: Huffman, J., Irion, J.

D055156 People v. Simpson

The conviction on count 6, grand theft, five of the section 667, subdivision (a) enhancements and one of the section 667.5, subdivision (b) enhancements are ordered stricken. The clerk of the superior court is ordered to prepare an amended abstract of judgment so reflecting, and to transmit the amended abstract to the Department of Corrections and Rehabilitation. In all other respects, the judgment is affirmed. Benke, Acting P.J.; We Concur: Huffman, J., Irion, J.

D056054 Mims v. Superior Court of San Diego County/People

"The denial of a petition for writ within the court's original jurisdiction without issuance of an alternative writ or order to show cause is final in that court when filed." (Cal. Rules of Court, rule 8.490(b)(1).) This court denied the petition for writ of mandate (D056054) on October 22, 2009. The court no longer has authority to modify the order. (Cal. Rules of court, rule 8.264(c)(1).) The request for reconsideration is denied.